

Claims 1-3 call for a strip of resilient foam. McCorsley, on the other hand, describes his plug 10 as being an air permeable, three-dimensional matrix or batting of thermoplastic micro-filaments that are irregularly looped and intermingled. The batting is covered by fabric 18. Though McCorsley's plug 10 can be formed from polyethylene, this compound is formed into fibers by McCorsley rather than foam to provide a product with substantially different properties from the one set forth in claims 1-3. As far as rolling plug 10 for storage and transport is concerned, it is unclear how this can be accomplished since: a) McCorsley does not suggest that this can be done, b) the triangular cross-section and inherent stiffness of plug 10 make rolling difficult, and c) the small dimensions of plug 10 make rolling unnecessary. Thus, McCorsley does not meet claims 1-3.

Claim 5 was rejected under 35 U.S.C. § 102(e) as being anticipated by Smith (U.S. Patent No. 6,907,701). A careful review of Smith, however, indicates that all of the limitations of claim 5 are not shown therein. Therefore, the Examiner is asked to reconsider claim 5.

Claim 5 requires that a first strip of resilient foam be positioned atop one row of asphalt shingles of a roof, and that a second strip of resilient foam be positioned atop another row of asphalt shingles, and that a corrugated metal panel be positioned *atop* the first and second strips of resilient foam, and that a penetrating fastener be driven through the corrugated metal panel. Smith, on the other hand, shows a metal panel 16 touching only one spacer 14 and fails to show a panel 16 positioned "*upon the top of*" (the dictionary definition of the term "atop" that the Applicant has adopted and has used consistently in his specification) two foam strips as required in claim 5. Thus, the method of claim 5 is different from that of Smith and provides enhanced support for a corrugated metal panel on a roof.

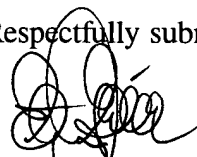
Claim 4 was rejected under 35 U.S.C. § 103(a) as being anticipated by McCorsley. Claim 4 requires a strip of resilient foam having dimensions suitable for positioning atop asphalt

shingles on a roof. As was noted above, however, McCorsley describes fabric-covered fibrous strips not ones of foam. McCorsley simply fails to suggest the product set forth in claim 4.

Claim 7 was rejected under 35 U.S.C. § 103(a) as being anticipated by Smith in view of Vasquez (U.S. Patent No. 5,471,807). Here, the Examiner opines that figure 1 of Smith shows a resilient spacer 14 positioned atop a row of shingles 22. No shingles 22 are shown in figure 1 of Smith, but figure 3A shows spacers 14 held adjacent shingles 22 by risers 24. Again, Applicant notes that he has adopted the dictionary definition of the term "atop," which is "upon the top of," to define the relationship of a spacer to a row of shingles. Since neither Smith nor Vasquez appear to illustrate this relationship, the rejection of claim 7 under 35 U.S.C. § 103(a) must fail and must be withdrawn.

Accordingly, it is respectfully submitted that this application is in condition to be passed to issue. If such is not determined to be the case, however, the Examiner is respectfully requested to call the undersigned attorney at the number given below in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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